

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #12	CCRB Case #: 201800905	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/05/2018 8:30 PM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 7/5/2019	EO SOL 7/5/2019	
Date/Time CV Reported Wed, 01/10/2018 10:09 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/10/2018 10:09 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Viktoria Bibolova	12818	960248	071 PCT
2. POM Anderson Thimote	16504	957399	071 PCT
3. POM Anson Lancaster	15549	930525	071 PCT
4. POM Asim Karim	13733	956015	071 PCT
5. SGT Gesner Charles	03036	925061	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anderson Thimote	Abuse: Police Officer Anderson Thimote entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Anson Lancaster	Abuse: Police Officer Anson Lancaster entered § 87(2)(b) # in Brooklyn.	§ 87(2)(b)
C.POM Anderson Thimote	Force: Police Officer Anderson Thimote used physical force against § 87(2)(b)	§ 87(2)(b)
D.SGT Gesner Charles	Force: Sergeant Charles Gesner used physical force against § 87(2)(b)	§ 87(2)(b)
E.POF Viktoria Bibolova	Force: Police Officer Viktoria Bibolova used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Asim Karim	Force: Police Officer Asim Karim used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 10, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone. Initially, § 87(2)(b) filed this complaint in conjunction with an incident that occurred on § 87(2)(b) however, because different officers responded for different matters each date was made its own case. The § 87(2)(b), complaint was investigated under CCRB case number § 87(2)(b).

On January 5, 2018, at approximately 8:30 p.m., Police Officer Anderson Thimote and Police Officer Anson Lancaster, both of the 71st Precinct, entered § 87(2)(b) in Brooklyn (**Allegations A and B: Abuse of Authority – Premises entered;** § 87(2)(g)). While inside, PO Thimote informed § 87(2)(b) that she was going to be placed under arrest regarding a complaint report filed against her by her mother, § 87(2)(b). She requested that a female officer respond to the incident location to search her and place her under arrest. The officers then requested a female officer and a supervisor respond to the location, and Police Officer Vikotria Bibolova, Police Officer Asim Karim, and Sergeant Gesner Charles, who are all of the 71st Precinct, responded to the location.

§ 87(2)(b) asked PO Bibolova if she could place her phone in her bedroom, and PO Bibolova said yes. After she started to walk toward her bedroom Sgt. Charles told her that she could not enter. § 87(2)(b) became irate and when officers attempted to place her in handcuffs, she fell to the ground. PO Bibolova, PO Thimote, and Sgt. Charles held her down and placed her in handcuffs (**Allegations C, D, E, F: Force – Physical force;** § 87(2)(g)).

§ 87(2)(b) was taken to the 71st Precinct stationhouse; after which, she was taken to § 87(2)(b) for medical evaluation. § 87(2)(b) was then taken to Kings Central Booking for further processing.

§ 87(2)(b) was arrested as a result of this interaction and was charged with § 87(2)(b).

(**Board Review 01**)

On February 22, 2018, this case was reassigned from Investigator Jennifer Smith to Investigator Wassim Abedrabbo.

Video footage was obtained in relation to this incident (**Board Review 02**) (**Board Review 03**) (**Board Review 03**) (**Board Review 04**) (**Board Review 05**) (**Board Review 20**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anderson Thimote entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer Anson Lancaster entered § 87(2)(b) in Brooklyn.

It is undisputed that on the morning of January 5, 2018, § 87(2)(b) filed a criminal complaint against § 87(2)(b) for § 87(2)(b) (**Board Review 07**). It's also undisputed that § 87(2)(b) gave PO Thimote and PO Lancaster permission to enter § 87(2)(b).

During her CCRB statement, § 87(2)(b) did not say that she asked PO Thimote or PO Lancaster to leave or otherwise inform them that she did not want them inside of the apartment (**Board Review 08**).

§ 87(2)(b) declined to participate in this investigation.

PO Thimote stated that on the incident date, at approximately 7:45 p.m., Police Officer Louis Lopez informed him that he took a criminal complaint and prepared a UF-61 against § 87(2)(b).

for stealing \$1,500 from § 87(2)(b) (**Board Review 09**). PO Lopez stated to PO Thimote that he was expecting § 87(2)(b) to call when § 87(2)(b) appeared at home so that he can go to the location and place her under arrest, but he was not able to remain on duty due to his tour ending. PO Lopez asked PO Thimote to go to § 87(2)(b)'s apartment and arrest § 87(2)(b) if § 87(2)(b) called. PO Lopez had not mentioned going to § 87(2)(b)'s apartment before that conversation. At approximately 8:00 p.m., § 87(2)(b) called PO Lopez, who called PO Thimote. PO Thimote went with PO Lancaster to § 87(2)(b) in Brooklyn to arrest § 87(2)(b).

PO Lancaster provided a statement consistent with PO Thimote (**Board Review 13**).

Footage captured by body worn cameras (BWC) on PO Thimote, between 2:20 and 2:35, and PO Lancaster, between 2:25 and 2:40, show the time frame just before the officers enter the apartment (**Board Review 02**) (**Board Review 03**). Before entering, PO Thimote asks § 87(2)(b) who opens the door, if her mother was home. At that point, the BWC captures § 87(2)(b) make a hand gesture, moving her hand in the direction of the inside of the apartment and § 87(2)(b) § 87(2)(b) then comes to the door and the officers enter shortly after. The video does not clearly capture § 87(2)(b)'s consent to the officers to enter; however, it does capture her making an inaudible statement to the officers just before they enter. § 87(2)(b) is physically compliant throughout the entry of the officers, and she does not display any hesitance upon walking the officers into the living room.



2018-07-24_16-13-01.mp4



2018-07-24_16-10-42.mp4

§ 87(2)(g)

People v. Gonzalez, 39 N.Y.2d 122 (1976) (**Board Review 12**). To give consent is to relinquish constitutional protection under both the federal and state constitutions against unjustified official intrusion. The consent must be a free and unconstrained choice.

§ 87(2)(g)

Allegation (C) Force: Police Officer Anderson Thimote used physical force against § 87(2)(b)

Allegation (D) Force: Sergeant Charles Gesner used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Viktoria Bibolova used physical force against § 87(2)(b)

Allegation (F) Force: Police Officer Asim Karim used physical force against § 87(2)(b)

It is undisputed that the officers went to the location to place § 87(2)(b) under arrest. It is also undisputed that she refused to be handcuffed, or touched in any manner, by a male officer; and for that reason, PO Thimote called for a female officer, PO Bibolova, and a supervisor, Sgt. Charles, to arrive on scene. Additionally, it is undisputed that after their arrival § 87(2)(b) asked PO Bibolova if she could go into her bedroom, to which PO Bibolova said yes, but Sgt. Charles

said that she cannot. Finally, it is undisputed that after § 87(2)(b) put her phone in the bedroom, Sgt. Charles made contact with § 87(2)(b) after which, she went down to the ground.

During her CCRB statement, § 87(2)(b) described PO Thimote and the other officers as being aggressive toward her. She stated that after PO Bibolova told her that she could go into the bedroom an officer said no, and PO Bibolova attempted to tell the officer that she told § 87(2)(b) she could go into the bedroom, but the officer did not hear that. At that time, the officer pulled her by her sweater and she fell to the ground. The officers then gathered around her on the ground and held her down until she was placed in handcuffs (**Board Review 08**).

PO Thimote stated that after § 87(2)(b) stated she wanted to put the phone in her bedroom, Sgt. Charles told her to give the phone to an officer who would do that for her. § 87(2)(b) then ran toward the room, dropped the phone on the floor in the room and then walked back toward the couch. Sgt. Charles grabbed § 87(2)(b)'s left arm and told PO Bibolova to handcuff her. § 87(2)(b) then yelled, "I don't want no male touching me!" and she went limp, fell to the ground, and began flapping her arms and kicking her legs. § 87(2)(b) was not thrown or forced to the ground by him, Sgt. Charles, or any other officer. PO Bibolova put the handcuffs on § 87(2)(b) while PO Thimote and Sgt. Charles held her down on the ground (**Board Review 09**).

Sgt. Charles stated that he arrived at the location with his partner, Police Officer Asim Karim, before PO Bibolova and her partner, Lieutenant David Salmon (**Board Review 10**). After PO Bibolova arrived, Sgt. Charles instructed her to stand up so that PO Bibolova may place her in handcuffs. § 87(2)(b) tried to go into a room, but Sgt. Charles said she could not go there because he was afraid she might try to access a weapon. When PO Bibolova attempted to handcuff her, § 87(2)(b) went to the ground and began punching and kicking. He did not pull her by her sweater, and he did not see any other officer do so. PO Bibolova was unable to handcuff § 87(2)(b) on her own, so he and PO Thimote held § 87(2)(b) down to assist in the handcuffing.

§ 87(2)(g)

PO Lancaster's BWC captured the moment where § 87(2)(b) requested to place her phone in the bedroom to the moment she was handcuffed, between 16:40 and 18:20 (**Board Review 03**). After she walks into her bedroom at 17:08, she exits the bedroom at 17:15. At that time she is irate, yelling and cursing, and she walks past Sgt. Charles who says, "Do me a favor, just relax," and places his hand on her arm. She tells him not to touch her because she does not want to be touched by a man. PO Bibolova is standing to § 87(2)(b)'s left, closer to her back. Sgt. Charles attempted to grab hold of § 87(2)(b)'s arm, but she starts to lean back and back away. Sgt. Charles, PO Thimote, and PO Bibolova are attempting to gain hold of § 87(2)(b)'s arms when she falls backward to the ground. Not Sgt. Charles, PO Thimote, or PO Bibolova pull § 87(2)(b) and cause her to fall.



2018-07-24_16-34-29.mp4

Between 17:40 and 18:10, § 87(2)(b) is on the ground repeatedly saying that she does not want any man touching her and multiple officers tell her to calm down and to stop kicking. She is then assisted off the ground by PO Bibolova.

Patrol Guide Procedure 208-02 (Board Review 15). When a uniformed member of service effects an arrest and officers are removing the person to a departmental facility for processing, they must handcuff the prisoner with their hands behind their back.

Patrol Guide Procedure 221-01 (Board Review 19). In considering whether use of force is reasonable, officers must consider if the individual was actively resisting custody and actions taken by the individual.

Upon the investigation's review of the Arrest section of the Patrol Guide, section 208, there was not any provision requiring officers of the same gender to place an individual in handcuffs.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to three CCRB complaints and has been named as a victim in 13 allegations (**Board Review 14**):
 - § 87(2)(b)
- PO Thimote has been a member-of-service for three years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Lancaster has been a member-of-service for 16 years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Charles has been a member-of-service for 18 years and has been a subject in five CCRB complaints and nine allegations, of which one was substantiated:
 - Case number 201211897 involved a substantiated allegation of a vehicle search against Sgt. Charles. The Board recommended Command Discipline – B, but the NYPD did not impose any penalty against Sgt. Charles.
 - § 87(2)(g)
- PO Bibolova has been a member-of-service for two years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)

- PO Karim has been a member-of-service for four years and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b)'s arrest.
- As of July 16, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**Board Review 15**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 12

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date